

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 75-90 are pending in the application, with 75, 76, and 83 being the independent claims. Claims 1-74 and 91-107 have been cancelled. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Rejections under 35 U.S.C. § 102***

Claim 75, 76-81 and 83-90 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,001,229 to Ramsey ("Ramsey"). The Examiner asserts that the Ramsey patent discloses each and every element recited in claims 75-81 and 83-90. Each one of independent claims 75, 76, and 83 recites "a first plate comprising an array of sample access ports" and "a second plate . . . comprising a planar array of microfluidic networks." The Examiner indicates that a cover plate (e.g., cover plate 28) of Ramsey corresponds to the claimed first plate and a base plate (e.g., base member 22) of Ramsey corresponds to the claimed second plate.

The Ramsey patent does not teach "a first plate [cover plate] comprising an array of sample access ports," as claimed. The Examiner indicates that the end portions of channels disposed in Ramsey's base member 22 correspond to the claimed access ports. However, because the base plate of Ramsey includes these end portions, not the cover

plate, the Ramsey patent fails to anticipate the claimed "first plate comprising an array of sample access ports." The Ramsey patent states that the termini of each channel portion "extend just beyond the peripheral edge of the cover plate," and therefore, the cover plate of Ramsey clearly does not include "an array of sample access ports," as claimed. (See col. 4, lines 46-47 of the Ramsey patent).

Moreover, the base plate of the Ramsey patent does not include "a planar *array* of microfluidic *networks*," as claimed. The Examiner indicates that "pattern channels" of the base plate of Ramsey correspond to the claimed microfluidic networks. However, Ramsey discloses a *single* channel *pattern* or network formed in the planar surface of the base plate. For example, FIG. 1 of the Ramsey patent shows a single channel pattern or network 24 with channel portions 48, 50, 52, and 54. The channel pattern 24 is formed on planar surface 26 of base member 22. (See col. 4, lines 15-18 and 42, of the Ramsey patent). The base plate of Ramsey does not include an *array* of channel patterns (*i.e.*, numerous discrete channel patterns or networks). Accordingly, the Ramsey patent does not disclose "a second plate comprising a planar *array* of microfluidic networks," as claimed.

For at least these reasons, claims 75, 76, and 83 are patentable over the Ramsey patent, and Applicants therefore respectfully request that the rejection be withdrawn.

Claims 77-81 depend from and add features to claim 75; therefore, these claims are patentable for at least the same reasons as presented above with respect to claim 75. Claims 84-90 depend from and add features to claim 83; therefore, these claims are patentable for at least the same reasons as presented above with respect to claim 83. Accordingly, Applicants respectfully request that the rejection be withdrawn.

***Rejections under 35 U.S.C. § 103***

Claim 82 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Ramsey patent in view of U.S. Patent No. 4,444,879 to Foster *et al.* ("Foster"). Claim 82 depends from and adds features to claim 75. The Foster patent was cited by the Examiner merely for its teaching of packaging immunoassays in a kit format, and thus the Foster patent does not cure the deficiencies of the Ramsey patent, as noted above with respect to claim 75. Accordingly, claim 82 is patentable for at least the same reasons as discussed above with respect to claim 75. Accordingly, Applicants respectfully request that the rejection be withdrawn.

***Nonstatutory Double Patenting Rejection***

Claim 75 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, and 6 of U.S. Patent No. 5,885,470. Claims 75-78 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, and 5 of U.S. Patent No. 6,482,364 B2. Claims 75-77 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 16, and 17 and of U.S. Patent No. 6,167,910 B1. Claims 83, 84, and 86 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 16, 17, and 18 and of U.S. Patent No. 6,167,910 B1. Claims 75-78 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 13-18 of U.S. Patent No. 6,251,343

B1. Terminal disclaimers are filed herewith to overcome each of these rejections.

Applicants therefore respectfully request that the rejections be withdrawn.

***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: January 9, 2006

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